

SECOND REGULAR SESSION

# HOUSE BILL NO. 2068

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLEY (47).

Read 1<sup>st</sup> time February 27, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4226L.011

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### AN ACT

To repeal section 453.110, RSMo, and to enact in lieu thereof one new section relating to the transfer of custody of a child, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 453.110, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 453.110, to read as follows:

453.110. 1. No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution, order an investigation and report as described in section 453.070 to be completed by the division of family services and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class [D felony] **A misdemeanor. Statutory mitigating circumstances shall include all of the following:**

(1) **The child surrendered or transferred in violation of this section was not physically harmed while in the custody of the person receiving custody of the child; and**

(2) **The person surrendering or transferring custody in violation of this section**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 **consented to the act and voluntarily relinquished custody of the child to the person**  
18 **receiving such custody; and**

19 **(3) The surrender or transfer of the child did not involve fraud, duress, or undue**  
20 **influence by the person receiving custody of the child.**

21 4. The investigation required by subsection 2 of this section shall be initiated by the  
22 division of family services within forty-eight hours of the filing of the court order requesting the  
23 investigation and report and shall be completed within thirty days. The court shall order the  
24 person having custody in violation of the provisions of this section to pay the costs of the  
25 investigation and report.

26 5. This section shall not be construed to prohibit any parent, agency, organization or  
27 institution from placing a child in a family home for care if the right to supervise the care of the  
28 child and to resume custody thereof is retained, or from placing a child with a licensed foster  
29 home within the state through a child placing agency licensed by this state as part of a  
30 preadoption placement.

31 6. After the filing of a petition for the transfer of custody for the purpose of adoption,  
32 the court may enter an order of transfer of custody if the court finds all of the following:

33 (1) A family assessment has been made as required in section 453.070 and has been  
34 reviewed by the court;

35 (2) A recommendation has been made by the guardian ad litem;

36 (3) A petition for transfer of custody for adoption has been properly filed or an order  
37 terminating parental rights has been properly filed;

38 (4) The financial affidavit has been filed as required under section 453.075;

39 (5) The written report regarding the child who is the subject of the petition containing  
40 the information has been submitted as required by section 453.026;

41 (6) Compliance with the Indian Child Welfare Act, if applicable; and

42 (7) Compliance with the Interstate Compact on the Placement of Children pursuant to  
43 section 210.620, RSMo.

44 7. A hearing on the transfer of custody for the purpose of adoption is not required if:

45 (1) The conditions set forth in subsection 6 of this section are met;

46 (2) The parties agree and the court grants leave; and

47 (3) Parental rights have been terminated pursuant to section 211.444 or 211.447, RSMo.